

ID: CCA-910124-08

Number: **200948059**

Release Date: 11/27/2009

Office:

UILC: 6229.00-00

From:

Sent: Wednesday, September 10, 2008 1:24 PM

To:

Cc:

Subject: TEFRA

The taxation of an electing small business trust (ESBT) is governed by section 641(c) and section 1.641(c)-1 of the regulations. If the ESBT only holds S corporation stock and no portion of it is treated as a grantor trust, then the ESBT is taxed at the trust level only. However, if the trust holds assets other than the S corporation stock, then the beneficiaries might be subject taxation if they receive a distribution out of DNI. Also, if the trust is treated in part as a grantor trust, then the grantor/owner will be subject to tax on the trust's income related to the portion owned. Example 1 in section 1.641(c)-1 illustrates the possibilities.